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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,720	09/25/2003	Nobuo Yamazaki	S011-5128	6770

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,720

Applicant(s)

YAMAZAKI ET AL.

Examiner

Alexandra K Pechhold

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/25/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over**

Enters et al (US 4,396,067) in view of Gabillat (FR 2,631,206). Enters discloses a walk-behind tiller as illustrated in Fig. 2 comprising a body, a pair of left and right travel wheels (14) mounted to opposite ends of an axle extending transversely of the body, a tilling device seen as tiller tines (16) located forwardly of the wheels, and a handle. Enters fails to disclose the limitations of the loop-shaped handle as claimed. Gabillat teaches a loop-shaped handle configuration on a lawnmower comprising: left and right horizontal grips extending rearwardly substantially horizontally from rear ends of the handle proximal portions (seen as the upper portions of 7 in Fig. 1), left and right rising portions extending upwardly from the rear ends of the left and right horizontal grips substantially orthogonally to the oblique handle proximal portions (seen in Fig. 1 as the portions of the handle between 7 and 8), and a cross portion interposed between upper ends of the left and right rising portions (seen as 8 in Fig. 1). With respect to the recitation of how and when the handle sections are used, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus

satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tiller of Enters to include the handle of Gabillat, since such a handle provides a greater number of gripping surfaces for greater agility for maneuvering and manipulating the machine into different directions and positions.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Enters et al (US 4,396,067) and Gabillat (FR 2,631,206) as applied to claim 1, and further in view of Jones et al (US 4,132,280) and Oshima (JP 05015223 A). The combination of Enters and Gabillat fails to disclose the shaped of the clutch lever as recited. Both Jones et al and Oshima teach clutch levers that mirror the shape of the handles, which inherently provides for a comfortable operation for a machine operator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tiller of Enters having the handle of Gabillat to include a clutch lever that has a left and right supported ends swingable supported on at least one of the left and right horizontal grips, left and right lever horizontal portions extending rearwardly from the left and right supported ends and shaped correspondingly to the left and right horizontal grips of the handle, and left and right lever forwardly-tilted portions extending upwardly from the rear ends of the left and right lever horizontal portions and shaped corresponding to the left and right rising portions of the handle, since both Jones et al and Oshima illustrate the commonly seen congruent shapes of the handle and clutch lever, and thereby this would merely require duplication of the shape of the handle of Gabillat.


Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
4/1/04